

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

KHRISTINE LYNN WELLS,

Plaintiff,

v.

SANTANDER CONSUMER, USA, INC.,

Defendant.

CIVIL ACTION NO.: _____
(Removed from the General Court of
Justice, Superior Court Division,
Cabarrus County, Case #: 14 CVS
3129)

NOTICE OF REMOVAL

Defendant Santander Consumer USA, Inc. (“Santander”), by counsel, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, hereby notice removal of the state court civil action known as *Khristine Lynn Wells v. Santander Consumer USA, Inc.*, Case No. 14-CVS-3129, from the General Court of Justice, Superior Court Division, for Cabarrus County, North Carolina, to the United States District Court for the Middle District of North Carolina, Charlotte Division, and in support thereof states as follows.

1. On or about October 24, 2014, Plaintiff Khristine Lynn Wells (“Wells”) filed a Complaint against Santander (the “Complaint”) in the General Court of Justice, Superior Court Division, for Cabarrus County, North Carolina (the “State Court”). A true and correct copy of the Complaint is attached hereto as **Exhibit 1**.

2. On October 31, 2014, legal service was made upon Santander through its registered agent, CT Corporation, via certified mail in accordance with N.C. Gen. Stat. § 1A-1, Rule 4.

3. Except for the notice filed with respect to this Notice of Removal, as of the date of this filing, no pleadings, motions, or papers other than the Complaint, have been filed with the State Court in this action.

4. As set forth more fully below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441, because Santander has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

GROUND FOR REMOVAL

I. Santander Has Satisfied The Procedural Requirements For Removal.

5. Legal service was made upon Santander, through its registered agent, CT Corporation, via certified mail in accordance with N.C. Gen. Stat. § 1A-1, Rule 4 on October 31, 2014; therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b), because Santander is filing its Notice of Removal within 30 days of their receipt of the initial pleading setting forth the claim for relief upon which such action is based.

6. This Court is the proper division, because it embraces Cabarrus County, North Carolina, where Wells' action is pending. *See* 28 U.S.C. §§ 1441 and 1446(a).

7. No previous request has been made for the relief requested herein.

8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on Wells, and a copy is being filed with the State Court Clerk. A copy of the State Court Notice of Filing of Notice of Removal, without its exhibits, is attached hereto as **Exhibit 2**.

II. Removal Is Proper Because This Court Has Subject Matter Jurisdiction Under 28 U.S.C. § 1331.

9. Under 28 U.S.C. § 1331, United States District Courts are vested with jurisdiction to consider cases or controversies “arising under” the laws of the United States of America. *See* 28 U.S.C. § 1331.

10. Removal of such cases is governed by 28 U.S.C. § 1441(b). Section 1441(b) makes clear that a case brought in state court, raising a federal question, “*shall* be removable” to the United States District Courts “without regard to the citizenship or residence of the parties.” *See* 28 U.S.C. § 1441(b) (emphasis added).

11. Here, Wells’ Complaint purports to assert a claim against Defendants for alleged violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”). *See* Complaint, p. 1, ¶¶ 1, 37-41.

12. Wells’ Complaint alleges violations of a federal statute—the TCPA—and consequently “arise[] under” the laws of the United States. *See* 28 U.S.C. § 1331. Therefore, this Court may properly exercise jurisdiction over these claims.

13. Given that the requirements for federal question jurisdiction are satisfied, this case is properly removed.

WHEREFORE, Defendant Santander Consumer USA, Inc., by counsel, respectfully request that the above-referenced action, originally filed in the General Court of Justice, Superior Court Division, for Cabarrus County, North Carolina, be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

Dated: November 25, 2014

Respectfully submitted,

SANTANDER CONSUMER USA, INC.

By Counsel

/s/ Patricia L. Rhame

Patricia L. Rhame

N.C. Bar No. 43156

Martineau King, PLLC

P.O. Box 31188

Charlotte, NC 28231

T: 704-247-8520

prhame@martineauking.com

*Counsel for Defendant Santander Consumer USA,
Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of November, 2014, a copy of the foregoing was file electronically. Notice of this filing will be sent to the following by operation of the Court's Electronic Case Filing System. Parties may also access this filing through the Court's system.

Travis E. Collum, Esq.
Collum & Perry, PLLC
P.O. Box 1739
Mooresville, NC 2815
Counsel for Plaintiff Khristine Lynn Wells

/s/ Patricia L. Rhame
Patricia L. Rhame
*Counsel for Defendant Santander Consumer
USA, Inc.*